IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

JUDGMENT

Devendra Singh Vs. State of Rajasthan
(S.B. CRIMINAL APPEAL NO.858/2002)

S. B. Criminal Appeal under Sec.374 (2) Cr.P.C. against the judgment dated 24-4-2002 in Sessions Case No.12/2002 passed by Sh. Atul Kumar Chatterjee, Additional Sessions Judge (Fast Track) No.3, Bharatpur.

Date of Judgment: February 21, 2007.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA

Mr. Ram Mohan Sharma, for the appellant.

Mr. M.L.Goyal, Public Prosecutor for the State.

BY THE COURT:

Challenge in this appeal is to the judgment dated April 24, 2002 of learned Additional Sessions Judge (Fast Track) No.3, Bharatpur, whereby the appellant was convicted under section 307 IPC and sentenced to suffer rigorous imprisonment for seven years and fine of Rs.2000/-, in default to further suffer simple imprisonment for six months.

2. I have learned counsel for the appellant as well as learned public prosecutor and scanned the material on record.

3. I have no doubt that the appellant was rightly convicted under section 307 IPC. Reasons given by learned trial Judge are cogent and valid and I do not see any ground to differ from them. I therefore maintain the conviction of appellant under section 307 IPC. But so far as the sentence is

concerned, I find that Mahesh (Pw.2) sustain injuries on non vital parts of his body. The appellant was arrested on January 22, 2002 and has remained in custody for a period of more than five years.

4. It is contended by learned counsel for the appellant that since the injured Mahesh (Pw.2) received injuries on non vital parts of his body the sentence of appellant may be reduced. Reliance is placed on Prabha Rashu Machhi Vs. State of Gujarat (AIR 1980 SC 1758), wherein the Apex court considering the nature of injuries reduced the sentence from ten years to five years. In the case on hand, as already noticed that the injured received injuries on non vital parts of his body, I find it a fit case to reduce the sentence awarded to appellant.

5. I accordingly allow the appeal in part and while upholding the conviction of appellant under section 307 IPC, I reduce the sentence of appellant from seven years to five years. The appellant Devendra Singh, who has already been remained in custody for more than 5 years and still in confinement, shall be set at liberty forthwith, if not required to be detained in any other case.

(Shiv Kumar Sharma)J.

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